

**CHAPTER 515**  
**DISCRIMINATION IN REAL PROPERTY TRANSACTIONS**

**SECTION**

|        |  |
|--------|--|
| 515-1  | Construction   |
| 515-2  | Definitions  |
| 515-3  | Discriminatory practices   |
| 515-4  | Exemptions   |
| 515-5  | Discriminatory financial practices                                   |
| 515-6  | Restrictive covenants and conditions                                 |
| 515-7  | Blockbusting   |
| 515-8  | Religious institutions   |
| 515-9  | Enforcement; powers of department to prevent unlawful discrimination |
| 515-10 | Complaint and subsequent proceedings                                 |
| 515-11 | Hearing  |
| 515-12 | Dismissal after hearing  |
| 515-13 | Determination of discriminatory practice; relief                     |
| 515-14 | Judicial review; enforcement   |
| 515-15 | Repealed   |
| 515-16 | Other discriminatory practices                                       |
| 515-17 | Attempts   |
| 515-18 | Conciliation agreements  |
| 515-19 | Public contractors   |
| 515-20 | Prima facie evidence   |

**§515-1 Construction.** This chapter shall be construed according to the fair import of its terms and shall be liberally construed.

**§515-2 Definitions.** In this chapter, unless the context otherwise requires:

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Discriminatory practice" means a practice designated as discriminatory under the terms of this chapter.

"Handicapped status" means the state of having a physical or mental impairment which substantially limits one or more major life activities, having a record of such impairment, or being regarded as having such an impairment. The term does not include alcohol or drug abuse that impairs a person's activities or threatens the property or safety of others.

"Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals.

"National origin" includes the national origin of an ancestor.

"Parental status" means that status of a person who has legal custody and control of a minor child, or minor children, and with whom the minor child, or minor children, maintains a place of abode.

"Person" refers to the definition of section 1-19 and includes a legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, the State, or any governmental entity or agency.

"Real estate broker or salesperson" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who purports to be engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

"Real estate transaction" includes the sale, exchange, rental, or lease of real property.

"Real property" includes building, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

**§515-3 Discriminatory practices.** It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesperson, because of race, sex, color, religion, marital status, parental status, ancestry, handicapped status or HIV (human immunodeficiency virus) infection:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to the person's attention, or to refuse to permit the person to inspect real property;
- (6) To print, circulate, post, or mail, or cause to be so published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

- (7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in areal estate transaction or in the furnishing of facilities or services in connection therewith;
- (8) To refuse to engage in a real estate transaction with a blind or deaf person because the person uses the services of a certified guide or signal dog; provided that reasonable restrictions or prohibitions may be imposed regarding excessive noise or other problems caused by those animals. For the purposes of this paragraph:
  - "Blind" shall be as defined in section 235-1;
  - "Deaf" shall be as defined in section 235-1;
  - "Guide dog" means any dog individually trained by a licensed guide dog trainer for guiding a blind person by means of a harness attached to the dog and a rigid handle grasped by the person;
  - "Reasonable restriction" shall not include any restriction that allows any owner or person to refuse to negotiate or refuse to engage in the real estate transaction; as used herein, the "reasonableness" of the restriction shall be examined by giving due consideration to the needs of a reasonable prudent person in the same or similar circumstances as the blind or deaf person. Depending on the circumstances, a "reasonable restriction" may require the owner of the certified guide or signal dog to comply with one or more of the following:
    - (A) Provide proof that the animal is a certified guide dog or signal dog;
    - (B) Observe applicable laws including leash laws and pick-up laws;
    - (C) Assume responsibility for damage caused by the dog;
    - (D) Use a harness with a rigid handle on the dog at all times; or
    - (E) Have the housing unit cleaned upon vacating, by fumigation, deodorizing, professional carpet cleaning, or other method appropriate under the circumstances.
- The foregoing list is illustrative only, and neither exhaustive nor mandatory; and
- "Signal dog" means any dog trained to alert a deaf person to intruders or sounds; or
- (9) To solicit or require as a condition of engaging in real estate transaction that the buyer, renter, or lessee be tested for human immunodeficiency virus infection (HIV), the causative agent of acquired immunodeficiency syndrome (AIDS).

**§515-4 Exemptions.** (a) Section 515-3 does not apply:

- (1) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other if the lessor or a member of the lessor's family resides in one of the housing accommodations; or
- (2) To the rental of a room or rooms in a housing accommodation by an individual if the individual or a member of the individual's family resides therein.

(b) Nothing in this chapter regarding parental status shall apply to housing for older persons as defined by 42 U.S.C. section 3607 (b)(2).

**§515-5 Discriminatory financial practices.** It is a discriminatory practice for a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person:

- (1) To discriminate against the applicant because of race, sex, color, religion, marital status, parental status, ancestry, handicapped status, or HIV (human immunodeficiency virus) infection;
- (2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, sex, color, religion, marital status, parental status, ancestry, handicapped status, or HIV infection.

**§515-6 Restrictive covenants and conditions.** (a) Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, sex, color, religion, marital status, parental status, ancestry, or handicapped status, or who are infected by the HIV (human immunodeficiency virus) is void.

(b) Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, sex, color, religion, marital status, parental status, ancestry, handicapped status, or HIV infection is void, except a limitation on the basis of religion or sex, on the use of real property held by a religious institution or organization or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(c) It is a discriminatory practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

**§515-7 Blockbusting.** It is a discriminatory practice for a person, for the purpose of inducing a real estate transaction from which he may benefit financially:

- (1) To represent that a change has occurred or will or may occur in the composition with respect to race, sex, color, religion, ancestry, handicapped status of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

**§515-8 Religious institutions.** It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised, or controlled by a religious institution or organization to give preference to members of the same religion or of one sex in a real property transaction.

**§515-9 Enforcement; powers of department to prevent unlawful discrimination.** The department of commerce and consumer affairs has jurisdiction over the subject of real property transaction practices and discrimination made unlawful by this chapter. The department has the following powers:

- (1) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations of this chapter;
- (2) At any time after a complaint is filed, to require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation, and require the production of documents relevant to the complaint. The department may make rules authorizing any individual designated to exercise these powers in the performance of official duties;
- (3) To furnish technical assistance requested by persons subject to this chapter to further compliance with the chapter or an order issued thereunder;
- (4) To make studies appropriate to effectuate the purposes and policies of this chapter and to make the results thereof available to the public;
- (5) To render at least annually a comprehensive written report to the governor and to the legislature. The report may contain recommendations of the department for legislative or other action to effectuate the purposes and policies of this chapter;
- (6) In accordance with chapter 91 to adopt, promulgate, amend, and rescind rules and regulations to effectuate the purposes and policies of this chapter, including regulations requiring the inclusion in advertising material of notices prepared or approved by the director of commerce and consumer affairs.

**§515-10 Complaint and subsequent proceedings.** (a) A person claiming to be aggrieved by a discriminatory practice, the person's agent, or the attorney general, may file with the department of commerce and consumer affairs a written complaint stating that a discriminatory practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the department to identify the person charged (hereinafter the respondent). The department shall promptly investigate the allegations of discriminatory practice set forth in the complaint and shall

immediately furnish the respondent with a copy of the complaint. The complaint must be filed within ninety days after the alleged discriminatory practice occurs.

(b) If within sixty days after the complaint is filed it is determined by the department that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the department shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the department deems proper.

(c) Unless the department has issued an order dismissing the complaint pursuant to this section, it shall endeavor to eliminate the alleged discriminatory practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory practices of the type stated in the agreement and to take such affirmative action as in the judgment of the department will carry out the purposes of this chapter and may include consent by the respondent to the entry in court of a consent decree embodying terms of the conciliation agreement. If a conciliation agreement is entered into, the department shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the department deems proper. Except for the terms of the conciliation agreement, neither the department nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate a discriminatory practice by conference, conciliation or persuasion, whether or not there is a determination of reasonable cause or a conciliation agreement.

(d) At any time in its discretion but not later than one year from the date of a conciliation agreement, the department shall investigate whether the terms of the agreement are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the department shall take affirmative action as authorized in section 515-13.

(e)(1) At any time after a complaint is filed, the department may file a petition in the circuit court in a circuit in which the subject of the complaint occurs, or in a circuit in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from doing or procuring any act tending to render ineffectual any order the department may enter with respect to the complaint. The court may grant such temporary relief or restraining order as it deems just and proper, but no such relief or order extending beyond five days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice;

(2) If a complaint is dismissed by final order of the department or a court after a court has granted temporary relief or a restraining order under subsection (e)(1), the respondent is entitled to recover from the State damages and costs, not to exceed a total of \$500,

sustained by reason of the temporary relief or restraining order in an action in the court which granted the temporary relief or restraining order.

**§515-11 Hearing.** (a) Within sixty days after a complaint is filed, unless the department of commerce and consumer affairs has issued an order dismissing the complaint or stating the terms of a conciliation agreement, the department shall serve on the respondent by registered or certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer in writing the allegations of the complaint at a hearing before the director of commerce and consumer affairs or a hearing examiner at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the attorney general, and such other public officers and persons as the department deems proper. The notice shall conform to and the hearing shall be conducted in accordance with chapter 91.

(b) The respondent may file an answer with the department in person or by registered or certified mail in accordance with the rules of the department. The department shall furnish a copy of the answer to the complainant and any other party to the proceeding. The complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the order is based.

(c) The case in support of the complaint shall be presented at the hearing by the department. Efforts in a particular case to eliminate a discriminatory practice by conference, conciliation, and persuasion shall not be received in evidence.

(d) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing with or without representation, may examine the cross-examine witnesses and the complainant, and may offer evidence. The complainant and the attorney general may intervene, examine, and cross-examine witnesses, and may present evidence.

(e) If the respondent fails to answer the complaint, the department or the hearing examiner may enter the respondent's default and the hearing shall proceed on the evidence in support of the complaint. The default may be set aside for good cause shown upon equitable terms and conditions.

(f) Testimony taken at the hearing shall be under oath and transcribed. If the testimony is not taken before the department, the record shall be transmitted to the department. After the hearing, the department upon notice to all parties with an opportunity to be heard may take further evidence or hear argument.

**§515-12 Dismissal after hearing.** If the department of commerce and consumer affairs determines that the respondent has not engaged in a discriminatory practice, the department shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the department deems proper.

**§515-13 Determination of discriminatory practice; relief.** (a) If the department of commerce and consumer affairs determines that the respondent has engaged in a discriminatory practice, the department shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative actions as in the judgment of the department will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, the attorney general, and to such other public officers and persons as the department deems proper.

(b) Affirmative action ordered under this section may include but is not limited to:

- (1) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;
- (2) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;
- (3) Reporting as to the manner of compliance;
- (4) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the department and inclusion of such notices in advertising material;
- (5) Cancellation, rescission, or revocation of a contract, deed, lease, or other instrument transferring real property, which is the subject of a complaint of a discriminatory practice, to a person who had actual knowledge or record notice, prior to the transfer or the execution of the legally binding obligation to make the transfer, that a determination of reasonable cause had been made with respect to the discriminatory practice;
- (6) Payment to an injured party of profits obtained by the respondent through a violation of section 515-7, subject to the principles of equity;
- (7) Payment to the complainant of damages for an injury caused by the discriminatory practice and costs, including a reasonable attorney's fee. Unless greater damages are proven, damages may be assessed at \$500 for each violation.

(c) In the case of a respondent who is found by the department to have engaged in a discriminatory practice in the course of performing under a contract or subcontract with the State or a county, or agency thereof, if the discriminatory practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of the officer's or agent's employment, the department shall so certify to the contracting agency. Unless the department's finding of a discriminatory practice is reversed in the course of judicial review under section 515-14, the finding of discrimination is binding on the contracting agency.

(d) Thirty days after an order is issued under this section, unless an appeal by the respondent is pending, the department may publish or cause to be published the name of a person who has been determined to be engaged in a discriminatory practice.



**§515-14 Judicial review; enforcement.** (a) A complainant or respondent aggrieved by an order of the department of commerce and consumer affairs, including an order dismissing a complaint, or stating the terms of a conciliation agreement, may obtain judicial review by taking an appeal to the circuit court in the manner and within the time provided by the rules of court.

(b) A proceeding for enforcement is initiated by filing a petition in the circuit court within thirty days after a copy of the order of the department is received. Copies of the petition shall be served upon all parties of record.

(c) If the department fails to schedule a hearing in accordance with section 515-11(a) or fails to issue an order within one hundred and eighty days after the complaint is filed, the complainant, respondent, or the attorney general may petition the circuit court in a circuit in which the alleged discriminatory practice set forth in the complaint occurs or in which the petitioner resides or transacts business for an order directing the department to take such action. Service shall be made upon all parties. Within thirty days after the service of the petition upon the department, or such other time as the court may fix, the department shall transmit to the court the original or a certified copy of the entire record, including any transcript of testimony.

(d) An objection not urged at a hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remit the case to the department in the interest of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon; provided the party shows good cause for the failure to adduce such evidence before the department.

(e) The jurisdiction of the circuit court is exclusive. Its final judgment shall be subject to an appeal to the supreme court. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(f) If no timely proceeding for review is initiated, the department may obtain a decree of the court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the court. The time limit of thirty days shall not apply to the department's petition.

(g) In a proceeding under this section, the court may grant such temporary relief or restraining order as it deems just, and in a review proceeding may enter an order enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the order of the department, or remanding the case to the department for further proceedings. All such proceedings shall be heard and determined by the court as expeditiously as possible and with precedence over all other matters before it, except matters of like nature.

#### **§515-15 Repealed.**

**§515-16 Other discriminatory practices.** It is a discriminatory practice for a person, or for two or more persons to conspire:

- (1) To retaliate or discriminate against a person because the person has opposed a discriminatory practice, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this chapter;
- (2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice;
- (3) Wilfully to interfere with the performance of a duty or the exercise of a power by the department of commerce and consumer affairs; or
- (4) Wilfully to obstruct or prevent a person from complying with this chapter or an order issued thereunder.

**§515-17 Attempts.** An attempt to commit, directly or indirectly, a discriminatory practice is a discriminatory practice.

**§515-18 Conciliation agreements.** It is a discriminatory practice for a party to a conciliation agreement made under this chapter to violate the terms of the agreement.

**§515-19 Public contractors.** Upon receiving a certification made under section 515-13(c), a contracting agency may take appropriate action to:

- (1) Terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with this chapter, and
- (2) Assist the State and all counties, and agencies thereof, to refrain from entering into further contracts, or extensions or other modifications of existing contracts, with the respondent until the department of commerce and consumer affairs is satisfied that the respondent will carry out policies in compliance with this chapter.

**§515-20 Prima facie evidence.** In a proceeding under this chapter, a written, printed, or visual communication, advertisement, or other form of publication, or written inquiry, or record, or other document, purporting to have been made by a person is prima facie evidence that it was authorized by the person.